

# EXHIBIT B

1 UNITED STATES OF AMERICA  
2 UNITED STATES DISTRICT COURT  
3 CENTRAL DISTRICT OF CALIFORNIA  
4 WESTERN DIVISION

5 - - -  
6 HONORABLE CHRISTINA A. SNYDER  
7 UNITED STATES DISTRICT JUDGE PRESIDING  
8 - - -

9 LOREAN BARRERA, )  
10 )  
11 PLAINTIFF, )  
12 )  
13 VS. ) CASE NO.:  
14 ) CV 11-4153-CAS  
15 PHARMAVITE, LLC, )  
16 )  
17 DEFENDANT. )  
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26 REPORTER'S TRANSCRIPT OF PROCEEDINGS

27 MONDAY, DECEMBER 4, 2017

28 LOS ANGELES, CALIFORNIA

29 LAURA MILLER ELIAS, CSR 10019  
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FINAL APPROVAL HEARING

4

1 LOS ANGELES, CALIFORNIA; MONDAY, DEC. 4, 2017; 10:05 A.M.

2 - - -

3 THE CLERK: Calling Calendar Item No. 1.

4 Case No. CV 11-4153.

5 Lorean Barrera versus Pharmavite, LLC.

6 Counsel, please step forward and state your  
7 appearances.

8 MR. WELTMAN: Good morning, Your Honor. Stewart  
9 Weltman for the plaintiff.

10 THE COURT: Good morning, Mr. Weltman.

11 MS. RYAN: Good morning, Your Honor. Elaine Ryan  
12 for the plaintiff.

13 THE COURT: Good morning.

14 MS. SYVERSON: Good morning, Your Honor. Patty  
15 Syverson for the plaintiffs.

16 THE COURT: Good morning.

17 MR. TATRO: Good morning, Your Honor. Rene Tatro  
18 for the defendant Pharmavite LLC.

19 THE COURT: All right. Good morning, everyone.

20 Okay. Do we have any of the objectors or proposed  
21 Amicus present?

22 Okay. Let me tell you what I think. I intend to  
23 approve the settlement. I do have one question on attorneys'  
24 fees that I want to raise. With regard to the individual  
25 objector who is a member of the class, I've read that

1 objection. I'm not persuaded by it.

2 As far as the Amicus, Tina, I think the prudent  
3 thing is to permit their Amicus to be filed. I have  
4 considered it. I've read it. I don't think it raises  
5 anything worth discussion because it really restates  
6 everything in the class member's objection. And to my  
7 understanding, because Tina has no standing which it does  
8 not, it seems to me that it has no right to appeal from any  
9 order that I enter.

10 As far as the objections to the Cy Prey, it seems  
11 to me they're mooted by the fact that all cash and products  
12 have already been claimed. And I think that the \$10,000 fee,  
13 incentive fee for Plaintiff Barrera is appropriate and  
14 reasonable and in line with other cases.

15 The only thing I'm going to ask the plaintiffs to  
16 address, though, is the attorneys' fees. If I calculate, and  
17 there is an \$11.3 million computed value of the settlement.  
18 \$1 million paid out in cash, \$5.9 million in free product,  
19 \$325,000 for class notice and administrative costs, the  
20 attorneys' fees and costs total \$4.07 million leading me to  
21 believe, but I haven't given any value to the injunctive  
22 relief that we're talking about 31 percent.

23 Now, I'm not saying I'm not going to approve it,  
24 but I do want to know if there's any additional value that  
25 the plaintiffs attribute to the settlement value in terms of

1 the injunctive relief that has been provided and whether you  
2 have valued that.

3 MR. WELTMAN: Your Honor, well, we haven't valued  
4 it per se because quite frankly, in other matters where we  
5 have attempted to value it, we've sort of been slapped down  
6 and accused of making speculative valuations. I don't think  
7 that one can -- I think you have to sort of guess as  
8 Your Honor has to exercise her discretion, decide from, I  
9 guess, instinct.

10 THE COURT: May I interrupt? Is there a telephone  
11 on in the courtroom? Thank you.

12 MR. WELTMAN: Your Honor, it is in line with, as  
13 you know, we've had several other settlements on this type of  
14 product and it's in line with that. And we think it's  
15 valuable, but it would be disingenuous to try to -- we hired  
16 an economist the first time we did it. And it's not an easy  
17 thing to value this type of injunctive relief, but it is an  
18 important facet of the settlement because they're no longer  
19 gonna be able to make these regrowth claims and things which  
20 is important to some people.

21 THE COURT: Right. Let ask you the key question  
22 because as I read the settlement agreement, if I weren't to  
23 allow the full amount of fee award, any amount I did not  
24 allow would revert to Pharmavite rather than to the class.  
25 Is that accurate?

1 MR. WELTMAN: That's accurate, Your Honor.

2 THE COURT: That in and of itself has some  
3 significance here. I also am mindful of the fact that you  
4 are only receiving 78 percent of your Load Star in the case,  
5 and I know that the case has been litigated vigorously both  
6 here and in connection with the settlement activities before  
7 Judge Gandhi. And another important factor is Judge Gandhi's  
8 role in supervising the settlement.

9 So I think, while I think 31 percent as an abstract  
10 number may be a little high in terms of the 25 percent  
11 normally which is the standard in the 9th Circuit, it seems  
12 to me that I'm going to allow it because it is substantially  
13 less than the Load Star. Secondly, any overage would not go  
14 to the class. It would go back to Pharmavite which seems to  
15 me somewhat counter-productive. And so based on that, I  
16 think I would proceed to approve the class settlement.

17 MR. WELTMAN: Thank you, Your Honor.

18 THE COURT: Mr. Tatro, do you have anything to add  
19 to the hopper?

20 MR. TATRO: I do not, Your Honor. There was a  
21 final approval order that the plaintiffs submitted with their  
22 papers. Will that be the final order of the Court?

23 THE COURT: It will be, but I will be quite honest  
24 I've got to find it amid the flurry of papers I received. I  
25 think the cleanest and simplest thing would be just to



1 resubmit a clean copy of the order that you all intend for me  
2 to sign and go from there. Do you have it, Mr. Tatro?

3 MR. TATRO: I have a clean copy.

4 THE COURT: Okay. Why don't you let the plaintiffs  
5 to take a quick look to be sure that we all agree that's the  
6 order and I'm happy to sign it today. Okay. You may  
7 approach.

8 MR. TATRO: Your Honor, I think that does not have  
9 the attorneys' fees and costs filled in; is that correct?

10 THE COURT: Well, let's just be sure. The  
11 attorneys' fees are \$3,475,000; is that right?

12 MR. WELTMAN: Correct.

13 THE COURT: And the costs are \$600,000. Okay. And  
14 incentive award is \$10,000; is that correct?

15 MR. WELTMAN: Correct.

16 MR. TATRO: Correct.

17 THE COURT: I'm going to give it to the courtroom  
18 deputy and hopefully, we have it right.

19 Congratulations, everybody.

20 MR. WELTMAN: Your Honor, I'm sure this is not the  
21 first time, but thank you for your patience and your  
22 diligence.

23 THE COURT: Thank you all for your hard work.

24 MR. WELTMAN: And please express our thanks to  
25 Magistrate Gandhi.

1 THE COURT: I'll do that. You'll have an  
2 opportunity to retain him in the very near future when he  
3 leaves us and joins JAMS.

4 MR. TATRO: Your Honor, I join in with what  
5 Mr. Weltman just said. Thank you very much.

6 THE COURT: Thank you.

7 (Proceedings were concluded at 10:14 a.m.)  
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CERTIFICATE OF REPORTER

COUNTY OF LOS ANGELES       )  
  ) SS.  
STATE OF CALIFORNIA       )

I, LAURA ELIAS, OFFICIAL REPORTER, IN AND FOR THE UNITED  
STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA,  
DO HEREBY CERTIFY THAT I REPORTED, STENOGRAPHICALLY, THE  
FOREGOING PROCEEDINGS AT THE TIME AND PLACE HEREINBEFORE SET  
FORTH; THAT THE SAME WAS THEREAFTER REDUCED TO TYPEWRITTEN  
FORM BY MEANS OF COMPUTER-AIDED TRANSCRIPTION; AND I DO  
FURTHER CERTIFY THAT THIS IS A TRUE AND CORRECT TRANSCRIPTION  
OF MY STENOGRAPHIC NOTES.

DATE: JANUARY 3, 2018

/s/ LAURA MILLER ELIAS

LAURA MILLER ELIAS, CSR 10019  
FEDERAL OFFICIAL COURT REPORTER